

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

CREIGHTON TAKATA, individually  
and on behalf of all others similarly  
situated,

*Plaintiff,*

v.

RIOT BLOCKCHAIN, INC., et al.,

*Defendants.*

No. 18-CV-2293 (FLW)(ZNQ)

**SUPPLEMENTAL  
DECLARATION OF DANIEL  
WALFISH IN REPLY TO  
PLAINTIFF’S OPPOSITION AND  
IN SUPPORT OF DEFENDANT  
JOHN STETSON’S MOTION TO  
DISMISS THE CONSOLIDATED  
SECOND AMENDED  
COMPLAINT**

I, Daniel Walfish, declare as follows:

1. I am a partner in the law firm Walfish & Fissell PLLC and am admitted *pro hac vice* as counsel to Defendant John Stetson. I make this declaration on personal knowledge, in reply to Lead Plaintiff’s Opposition to the Defendants’ (including Stetson’s) motions to dismiss.

2. Attached as Exhibit 1 is Bioptix, Inc. (“Bioptix”)’s January 6, 2017 Form 8-K filed with the Securities and Exchange Commission (“SEC”), which I retrieved from the SEC’s EDGAR database.

3. Attached as Exhibit 2 is Bioptix’s February 9, 2017 Form 8-K filed with the SEC, which I retrieved from the SEC’s EDGAR database.

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I declare under penalty of perjury that the foregoing is true and correct.

Dated: April 26, 2021

/s/ Daniel Walfish

Daniel Walfish

# **Exhibit 1**

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**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**  
WASHINGTON, DC 20549

**FORM 8-K**

**CURRENT REPORT**

PURSUANT TO SECTION 13 OR 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934

Date of Report (Date of earliest event reported) January 6, 2017

**Bioptix, Inc.**

(Exact name of Registrant as specified in  
its charter)

**Colorado**

(State or other jurisdiction of  
incorporation or organization)

**001-33675**

(Commission File Number)

**84-155337**

(I.R.S. Employer Identification No.)

**1775 38<sup>th</sup> Street  
Boulder, Colorado**

(Address of principal executive offices)

**80301**

(Zip Code)

Registrant's telephone number, including area code:

**(303) 545-5550**

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

**Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.**

On January 6, 2017, Bioptix, Inc. (the "Company") appointed John O'Rourke and Mike Dai as directors of the Company following the resignation of Gail S. Schoettler, Susan A. Evans and David E. Welch from the Board of Directors of the Company. Mr. O'Rourke and Mr. Dai constitute independent non-employee directors as defined by NASDAQ Rule 5605(a)(2). Mr. O'Rourke constitutes an audit committee financial expert within the meaning of Item 407(d)(5)(ii) of Regulation S-K promulgated under the Securities Act of 1933, as amended. Mr. Beeghley, Mr. O'Rourke and Mr. Dai were each appointed to the Nominating and Governance Committee (Mr. Beeghley, Chairman), Audit Committee (Mr. O'Rourke Chairman) and Compensation Committee (Mr. Dai Chairman) and all other directors were removed from such committees.

Mr. O'Rourke is an analyst and investor who currently serves as Managing Member of ATG Capital LLC, an investment fund focused on small and mid-cap growth companies possessing distinct competitive advantages and superior management teams. Mr. O'Rourke currently serves on the Board of Directors of Customer Acquisition Network Inc., a leading global performance based marketing company that reaches more than two billion users per month. Mr. O'Rourke formerly served on the Board of Directors of Rant, Inc., an innovator in U.S. digital media, prior to its sale to a Nasdaq listed company. He was formerly CFO of Fidelity Property Group, a real estate development company with a focus in California. He received his Bachelor of Science in Accounting with Honors from the University of Maryland and a Master of Science in Finance from George Washington University.

Mr. Dai has been an associate with ALOE Finance Inc., a financial consulting and transaction advisory firm since 2012. Prior to his involvement with ALOE Finance, Mr. Dai held various roles at Grant Thornton LLP, an audit, tax and advisory firm between 2007 and 2012. Mr. Dai also serves as chief financial officer and director of Santa Maria Petroleum Inc. (TSXV:SMQ.H), a position he has held since 2014.

Each of the resigning directors affirmed that the resignation was not related to any disagreement or concerns related to the financial status or financial statements of the Company.

**Item 9.01. Financial Statements and Exhibits.**

(d) Exhibits

**Exhibits**

99.1 Letter of Resignation

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Bioptix, Inc. (formerly known as Venaxis, Inc.)  
(Registrant)

January 6, 2017

By: /s/ Jeffrey G. McGonegal

Name: Jeffrey G. McGonegal

Title: Chief Financial Officer

**EXHIBIT INDEX**

<u>Exhibit No.</u>	<u>Description</u>
99.1	Letter of Resignation

## **Exhibit 2**



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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
WASHINGTON, DC 20549

**FORM 8-K**

**CURRENT REPORT**

**PURSUANT TO SECTION 13 OR 15(d) OF THE  
SECURITIES EXCHANGE ACT OF 1934**

**Date of Report (Date of earliest event reported): February 7, 2017**

**Bioptix, Inc.**

(Exact name of Registrant as specified in its charter)

**Colorado**

(State or other jurisdiction of  
incorporation or organization)

**001-33675**

(Commission File Number)

**84-155337**

(I.R.S. Employer Identification No.)

**1775 38th Street  
Boulder, Colorado**

(Address of principal executive offices)

**80301**

(Zip Code)

**Registrant's telephone number, including area code:**

**(303) 545-5550**

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (see General Instruction A.2. below):

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)  
☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)  
☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))  
☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

**Item 5.02 Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.**

On February 7, 2017, Michael Routh resigned from his position as a member of the Board of Directors of Bioptix, Inc. (the “Company”) and all committees thereof. Mr. Routh’s resignation is not due to any disagreement related to the financial status or financial statements of the Company.

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Bioptix, Inc.  
(Registrant)

February 9, 2017

By: /s/ Jeffrey G. McGonegal

Name: Jeffrey G. McGonegal

Title: Chief Financial Officer